LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 70 LCA 1975.

Bangalore, dated 11th/12th September 1975.

Ordered that the Election Laws (Amendment) Act, 1975, (40 of 1975) published in Part II Section I of the *Gazette of India* Extraordinary, dated 6th August 1975 be republished in the *Karnataka Gazette*, for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,
Under Secretary to Government,
26 *Dept. of Law and Parly. Affairs.*

Assented to on 6th August 1975 Act No. 40 of 1975.

THE ELECTION LAWS (AMENDMENT) ACT, 1975.

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ACT

further to amend the Representation of the People Act, 1951 and the Indian Penal Code.

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows :—

1 **Short title**—This Act may be called the Election Laws (Amendment) Act, 1975.

2. **Substitution of new section for section 8A.**—In the Representation of the People Act, 1951 (43 of 1951) (hereinafter referred to as the principal Act), for Section 8A, the following section shall be substituted, namely :

"**8A. Disqualification on ground of corrupt practices.**—(1) The case of every person found guilty of a corrupt practice by an order under Section 99 shall be submitted, as soon as may be, after such order takes effect, by such

authority as the Central Government may specify in this behalf, to the President for determination of the question as to whether such person shall be disqualified and if so, for what period.

Provided that the period for which any person may be disqualified under this sub-section shall in no case exceed six years from the date on which the order made in relation to him under section 99 takes effect.

(2) Any person who stands disqualified under Section 8A of this Act as it stood immediately before the commencement of the Election Laws (Amendment) Act, 1975, may, if the period of such disqualification has not expired, submit a petition to the President for the removal of such disqualification for the unexpired portion of the said period.

(3) Before giving his decision on any question mentioned in sub-section (1) or on any petition submitted under sub-section (2), the President shall obtain the opinion of the Election Commission on such question or petition and shall act according to such opinion.".

3. **Amendment of section 11.**—In section 11 of the principal Act, after the words "under this Chapter", the brackets, words, figure and letter "(except under section 8A)" shall be inserted.

4. **Amendment of section 11A.**—Section 11A of the principal Act shall be re-numbered as sub-section (1) thereof and—

(*a*) in the sub-section as so re-numbered clause (b) shall be omitted; and

(*b*) after the sub-section as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) Any person disqualified by a decision of the President under sub-section (1) of section 8A for any period shall be disqualified for the same period for voting at any election.

(3) The decision of the President on a petition submitted by any person under sub-section (2) of section 8A in respect of any disqualification for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State shall, so far as may be, apply in respect of the disqualification for voting at any election incurred by him under clause (b) of sub-section (1) of section 11A of this Act as it stood immediately before the commencement of the Election Laws (Amendment) Act, 1975, as if such decision were a decision in respect of the said disqualification for voting also.".

5. **Amendment of section 11B.**—In section 11B of the principal Act, for the words "any disqualification under this Chapter", the words, brackets, figures and letter "any disqualification under sub-section (1) of the section 11A" shall be substituted.

6 **Amendment of section 77.**—In section 77 of the principal Act, in sub-section (1),—

(*a*) for the words "the date of publication of the notification calling the election", the words "the date on which he has been nominated" shall be substituted;

(*b*) after *Explanation* 2, the following *Explanation* shall be inserted, namely:—

"*Explanation* 3.—For the removal of doubt, it is hereby declared that any expenditure incurred in respect of any arrangement, made, facilities provided or any other act or thing done by any person in the service of the Government and belonging to any of the classes mentioned in clause (7) of section 123 in the discharge or purported discharge of his official duty as mentioned in the proviso to that clause shall not be deemed to be expenditure in connection with the election incurred or authorised by a candidate or by his election agent for the purposes of this sub-section."

7. **Amendment of section 79.**—In section 79 of the principal Act, for clause (*b*), the following clause shall be substituted, namely:—

'(*b*) "candidate" means a person who has been or laims to have been duly nominated as a candidate at anya election;'.

8. **Amendment of section 123.**—In section 123 of th principal Act,—

(*a*) in clause (3), the following proviso shall be inserted at the end, namely:—

"Provided that no symbol allotted under this Act to a candidate shall be deemed to be a religious symbol or o national symbol for the purposes of this clause.";

(*b*) in clause (7), the following proviso shall be inserted at the end namely: -

"Provided that where any person, in the service of the Government and belonging to any of the classes aforesaid, in the discharge or purported discharge of his official duty, makes any arrangements or provides any facilities or does any other act or thing, for, to, or in relation to, any candidate or his agent or any other person acting with the consent of the candidate or his election agent, (whether by reason of the office held by the candidate or for any other reason), such arrangements, facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidate's election.";

(*c*) in the *Explanation* at the end, the following shall be added, namely:—

"(*3*) For the purposes of clause (7), notwithstanding anything contained in any other law, the publication in the Official Gazette of the appointment, resignation, termination of service, dismissal or removal from service of a person in the service of the Central Government (including a person serving in connection with the administration of a Union territory) or of a State Government shall be conclusive proof.—

(*i*) of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, and.

(*ii*) where the date of taking effect of such appointment, resignation, termination of service,

dismissal or removal from service, as the case may be, is stated in such publication, also of the fact that such person was appointed with effect from the said date, or in the case of resignation, termination of service, dismissal or removal from service, such person ceased to be in such service with effect from the said date.".

9. Amendment of section 171A of Act 45 of 1860.—In the Indian Penal Code, in section 171A, for clause (*a*), the following clause shall be substituted, namely:—

(*a*) "candidate" means a person who has been nominated as a candidate at any election;'.

10. Amendments to have retrospective effect.—The amendments made by sections 6, 7 and 8 of this Act in the principal Act shall also have retrospective operation so as to apply to and in relation to any election held before the commencement of this Act to either House of Parliament or to either House or the House of the Legislature of a State.—

(*i*) in respect of which any election petition may be presented after the commencement of this Act; or.

(*ii*) in respect of which any election petition is pending in any High Court immediately before such commencement; or.

(*iii*) in respect of which any election petition has been decided by any High Court before such commencement but no appeal has been preferred to the Supreme Court against the decision of the High Court before such commencement and the period of limitation for filing such appeal has not expired before such commencement; or.

(*iv*) in respect of which appeal from any order of any High Court made in any election petition under section 98 or section 99 of the principal Act is pending before the Supreme Court immediately before such commencement.